

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Central Illinois Public Service Company)	
(AmerenCIPS) and)	
)	
Union Electric Company)	
(AmerenUE))	
)	
Application for entry of protective order to)	
protect confidentiality of materials submitted)	
in support of revised gas service tariffs.)	
)	
Central Illinois Public Service Company)	Docket Nos. 02-0798, 03-0008, 03-0009
)	(Cons.)
Proposed general increase in natural)	
gas rates. (Tariffs filed November 27, 2002))	
)	
Union Electric Company)	
Proposed general increase in natural gas rates.)	
)	
(Tariffs filed November 27, 2002)		

**REPLY BRIEF OF
THE PEOPLE OF THE STATE OF ILLINOIS**

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**REPLY BRIEF OF THE PEOPLE
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The People of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois (“the People”) submit the following Reply Brief in response to Briefs filed by the Central Illinois Public Service Company (“CIPS”) and the Union Electric Company (“UE”) (collectively as “CIPS/UE”) for an increase in their natural gas rates.

INTRODUCTION

I. Post Test Year Capital Additions

In their Initial Brief, CIPS/UE claim that the Commission’s test year rule, 83 Ill. Adm. Code 285.150, does not require a company proposing post-test year plant additions to a historical test year to make an adjustment for depreciation expense. CIPS/UE Initial Brief at 9. This is a misleading interpretation of the rule. The rule describes how post test-year adjustments must be made as follows,

“A utility may propose adjustments to the selected Historical or Current Test year for all known and measurable changes in the operating results of the test year. These adjustments shall reflect significant changes (changes affecting the ratepayers) in plant investment, operating revenues, expenses and capital structure where such changes occurred during the selected Historical or Current Test Year or are reasonably certain to occur subsequent to the selected Test Year within 12 months from the filing date of the tariffs and the amount of the changes are determinable.”

83 Ill. Adm. Code 285.150(e). (emphasis added) As the People pointed out in their Brief, this rule requires a utility proposing post test-year adjustments for significant, known and measurable changes that take place in the year following the test-year to include all

“significant changes” affecting ratepayers in those adjustments. AG Brief at 6. This is required to prevent a mismatch between test year and post-test year data.

CIPS/UE proposed to increase its plant in service for post-test year investments on the grounds that the increase was “known and measurable.” Depreciation occurring during the post-test year period is also a significant, known and measurable change. AG Ex. 1.1 at 4; AG Cross Ex. 1.0. More importantly, the depreciation reserve wholly offset the increase in plant in service that CIPS/UE seek to add to rate base. CIPS/UE witness Opich agreed that as a result of the depreciation reserve, the actual net plant in service did not increase after the test year, and as a result is “very similar” at the end of the test year and six months later, on December 31, 2002. TR. at 273. Furthermore, as is demonstrated in the Peoples’ Testimony, during each of the last five years, the depreciation reserve roughly offset additions to plant. AG Brief at 4. Consequently, CIPS/UE’s net plant in service did not increase significantly over this time period.

CIPS/UE asserts that AG witness Effron’s recommended treatment for post test-year plant additions “does not produce symmetry” and upsets a balance that the Commission has struck with its historic test-year rule with regard to matching post test-year additions and post test-year depreciation. CIPS/UE Initial Brief at 9. CIPS/UE claims that Mr. Effron’s treatment of post test-year adjustments is unfair because it subtracts all post test-year deductions from rate base while making additions to rate base only for only “limited, significant additions to plant that will be in service when the rates approved in this proceeding go into effect.” CIPS/UE Initial Brief at 9.

This argument accomplishes nothing for CIPS/UE. In response to CIPS/UE’s post-test year additions adjustment, the People are not suggesting that multiple,

insignificant items need to be aggregated and subtracted from CIPS/UE's test year rate base. Instead, the People recommend that one very significant factor, the increase in depreciation reserve, be recognized to avoid an inaccurate presentation of rate base. The increase in depreciation reserve is directly related to the post-test year plant additions, and should be presented for the same period of time. The People have not recommended any other change to rate base in response to CIPS/UE's post-test year plant additions adjustment.

In fact, the rule requires that post-test year adjustments shall reflect significant changes – which the rule defines as “changes affecting ratepayers.” The depreciation reserve represents the amount that ratepayers are providing the company to maintain or replace plant on an ongoing basis. If increases to the depreciation reserve were not recognized for the period of the post-test year additions, there would be a mismatch between the depreciation expense that provides the company with the funds to maintain and replace its rate base and its rate base (which CIPS/UE seeks to adjust to include post-test year additions). The rate base would constantly increase as additions to plant would be added to rate base, but the value of existing plant that is recovered through the depreciation expense would not be subtracted from rate base. Plant increases without corresponding subtractions due to depreciation would lead to inflated rate base figures and inflated rates.

Contrary to CIPS/UE's suggestion, the balance established in the Commission's test-year rule regarding post test-year additions (83 Ill. Adm. Code 285.150(e)) would be completely thrown off by including post test-year additions but ignoring corresponding amounts ratepayers are providing in depreciation that occur each year in the ordinary

course of CIPS/UE's operations. The People continue to recommend that CIPS/UE's proposed post test-year plant addition adjustment be recognized as what it is, an attempt to inflate rate base by only telling half the story. The Commission should reject CIPS/UE's proposal to include post-test year plant-additions while ignoring post-test year depreciation, which in this case is sufficient to wholly offset the plant additions. The People request that CIPS/UE's proposed adjustment should be rejected. The People also recommend eliminating CIPS' post test-year plant adjustment and reducing UE's pro forma net plant in service by \$1,473,000.

II. Cash Working Capital Allowance

In its Initial Brief, CIPS/UE claim that the People's position that PGA under and over-recoveries will cancel each other out ignores the facts regarding PGA revenue lags experienced by the companies during the test year. CIPS/UE Initial Brief at 16. CIPS/UE support this claim by referring to CIPS/UE witness Subbakrishna's Surrebuttal testimony that the Companies generally under-recover PGA costs each month, and that this under recovery results from CIPS/UE's use of the PGA clause for rate stabilization. CIPS/UE Ex. 31 at 5. Mr. Subbakrishna does not mention anything about using the PGA clause as a form of rate stabilization in his direct, or rebuttal testimony. Only on surrebuttal testimony after the People pointed out that unless PGA recovery was biased, PGA under-and-over recoveries will cancel out, did Mr. Subbakrishna testify as to some bias in PGA collection. Additionally, he has offered no support for, or quantification of the amount of the claimed under recovery bias.

Furthermore, though Mr. Subbakrishna claimed to be making a general statement about a broad under-recovery trend, he did not consider any information from outside of

the test year in drawing his conclusion that CIPS/UE is generally in an under-recovery position. TR. at 331. Analysis of UE's PGA recovery during the twelve month period from November 2001 through November 2002, a time period that overlaps the test year by five months, demonstrates that during this time period, UE over recovered in seven out of the twelve months, and that under and over recoveries nearly cancel out, with a net difference of only \$177,490. TR. at 330. AG Cross Ex. 5.

Based on the facts that CIPS/UE witness Subbakrishna did not attempt to demonstrate any bias in PGA recovery until his third round of testimony, that he failed to quantify or otherwise substantiate the alleged bias, and that the bias he demonstrated did not exist in a twelve month period that overlaps nearly half of the test year, the AG continues to assert that there is, in fact, no bias toward under recover in the PGA. Consequently, PGA over and under recoveries will cancel each other out over time and there is no need for a separate lag calculation for PGA recovery.

III. Accumulated Deferred Income Taxes

In its Initial Brief, CIPS/UE attempts to re-ignite its argument that AG witness Effron's proposed treatment of Accumulated Deferred Income Taxes ("ADIT") is asymmetrical. CIPS/UE Initial Brief at 27 citing CIPD/UE Ex. 14 at 7. The argument that CIPS/UE's Initial Brief refers to states,

"Mr. Effron's proposal results in an asymmetrical treatment of [ADIT]. The balance of the [ADIT] is made up of a number of debit balances, which reduce the overall reduction of rate base, and credit balances, which increase the reduction to rate base. Mr. Effron only excludes certain deferred tax debit balances associated with items that are not typically considered in the determination of rate base. There are also deferred tax credit balances associates with items not considered in the determination of rate base. Therefore, Mr. Effron has selectively applied his recommendation to reduce rate base. His proposed

adjustment is incomplete. If the Commission were to determine that those deferred tax balances associates with items that are not considered in the determination of rate base should be excluded, both the debit and credit balances should be excluded.”

As the People demonstrated, and CIPS/UE witness Opich agreed to during cross-examination, CIPS/UE’s assertion that Mr. Effron’s ADIT recommendation excludes tax debits and not tax credits is incorrect. TR. at 280. As clearly demonstrated in a schedule submitted with his direct testimony, Mr. Effron’s ADIT recommendation includes both tax debits and credits. AG Ex. 1.0P CIPS Schedule B-2. CIPS/UE witness Opich’s claim in testimony that Mr. Effron’s proposed adjustment is asymmetrical has been entirely rebutted and shown to be incorrect during cross-examination, and has no merit now when offered in CIPS/UE’s Initial Brief.

CIPS/UE also claims that, “The Commission’s practice has not been to determine the components of the deferred tax reserve to be deducted from rate base on an account-by-account basis. CIPS/UE Initial Brief at 27. As the People stated in their Brief, the Commission has not established a consistent practice regarding account-by-account treatment of ADIT components. It has treated ADIT both as a single item and component by component in recent cases. ICC Docket No. 01-0423 Final Order at 45 (component by component treatment of ADIT); ICC Docket 01-0432 Order at 24 (single item treatment of ADIT). Furthermore, even if the Commission had established a consistent practice with regard to ADIT, prior Commission decisions are not *res judicata* in future Commission proceedings. United Cities Gas Co. v. Illinois Commerce Commission, 163 Ill.2d 23, 634 N.E.2d 719, 730, 205 Ill.Dec. 428, 439. *Citing* Mississippi River Fuel Corp. et al. v. Illinois Commerce Commission, 1 Ill. 2d 509, 513, 116 N.E.2d 394, 396.

For these reasons, CIPS/UE's argument that all ADIT components should be included in rate base, regardless of whether or not an ADIT component is associated with an item in rate base was flawed in its direct case and has not improved in subsequent rounds of testimony or briefing. The People maintain their position that ADIT components not associated with rate base items should not be considered in determining rate base. No Commission practice or previous Commission decision prevents the Commission from adopting the People's recommendation.

Additionally, the People point out that CIPS/UE's sister Ameren company, the Central Illinois Light Company ("CILCO"), is proposing item-by-item treatment of ADIT components in a rate case currently before the Commission. ICC Docket 02-0837. Inconsistent treatment of ADIT by the Ameren Company within its family of utilities further erodes the credibility of the argument offered by CIPS and UE that the Commission must treat all ADIT items consistently.

IV. Uncollectible Expenses

CIPS/UE's Initial Brief devotes six pages to discussion of a fact that the People do not dispute: natural gas prices are rising. CIPS/UE claim that rising natural gas prices necessitate a larger uncollectible expense. The People agree with CIPS/UE on this point and propose a method of calculating the uncollectible expense that, as CIPS/UE witness Opich agreed during cross-examination, considers current gas costs. TR at 282. This method does not, as CIPS/UE suggest, represent a "dismissal of the increase in gas costs." CIPS/UE Initial Brief at 38. Instead, the method the People propose ties the uncollectible expense to current revenues, including PGA revenues, so that the uncollectible expense will fluctuate with the price of gas.

The People disagree with CIPS/UE's characterization of the People's proposed method of calculating the uncollectible expense as a "five year average." CIPS/UE's Initial Brief repeatedly refers to the People's proposed uncollectible calculation method as a "five-year average." CIPS/UE Initial Brief at 33,34,35,36,37,38. This reference oversimplifies and misstates the People's proposal. The People do not propose calculating CIPS/UE's uncollectible expense by averaging uncollectible expenses over the last five years and using that number. To do so would ignore changes in natural gas market. Instead, the People recommend that the uncollectible expense should be determined by first, calculating the average ratio of uncollectible expense to total revenue over the past five years, and second, applying that ratio to current year total revenue.

V. Amortization of Voluntary Retirement Program ("VRP") Costs

CIPS/UE's Initial Brief attempts to justify the balance of costs and benefits of the VRP program by referring to the following statement in Mr. Opich's testimony; "the cumulative cost savings of the VRP exceeds the cost to implement the plan in about three years." CIPS/UE Initial Brief at 43 *citing* CIPS/UE Exhibit 14 at 13. The People's cross-examination of CIPS/UE witness Opich on this issue conclusively demonstrated that this statement is incorrect, and that amortizing the VRP over three years would cost, rather than save money. TR. at 287-289. CIPS/UE witness Opich agreed that the purpose of the VRP was to reduce expenses. TR. at 287. He then agreed that the net financial impact of both CIPS and UE's VRP programs amortized over three years was a \$78,000 cost. TR. at 289. Since the record demonstrates that amortizing the VRP over three years will cost rather than save CIPS/UE money, the People recommend a ten year rather than three year amortization period.

Additionally, as discussed in the People's Testimony and Brief, since VRP costs do not cease when a former employee is switched from VRP benefits to pension benefits, amortizing the costs of CIPS' and UE's VRP over ten years rather than three will align the costs of the program with the time period over which VRP expenditures will be made. AG Ex. 1.1 at 4; AG Brief at 15. Consequently, the ten-year amortization period recommended by the People more closely matches the time period during which VRP program expenditures are likely to be made.

VI. Pension and Benefits Expense

In their Initial Brief, CIPS/UE state that the Commission should set pension and OPEB expense at the levels projected in a forecast offered in CIPS/UE's Surrebuttal Testimony. CIPS/UE Initial Brief at 45. Adopting CIPS/UE request would infect the rates set in this proceeding with bad information for which CIPS/UE have not made the requisite demonstration of reasonableness. The Commission should have the most accurate information possible regarding CIPS/UE's pension and other post employment benefits ("OPEB") such as an actuarial study prepared by an independent actuary, in order to make a finding as to the appropriate level of these expenses. CIPS/UE commissioned such an actuarial study in 2002, and this study is the basis of the People's pension and OPEB expense recommendation. CIPS/UE could have commissioned another actuarial study in 2003 to reexamine pension and OPEB expenses. It did not. Instead, it based its rate case pension and OPEB expense request on its own internally prepared budget for which, as the record clearly demonstrates, CIPS/UE has not made the

requisite demonstration of reasonableness. AG Ex. 1.1 at 13.¹ It's budget figures represent mere conclusions on the expense adjustments CIPS/UE would like the Commission to approve.

CIPS/UE improperly attempted to provide new pension and OPEB figures and accompanying support for them in the form of Surrebuttal Testimony by CIPS/UE witness Vogl. The People have filed a motion to exclude Mr. Vogl's entire testimony and references to it in Mr. Opich's Surrebuttal Testimony, and later made an oral motion to strike the specific portions of Mr. Vogl's Surrebuttal Testimony related to pension and OPEB expense. The Commission must not permit CIPS/UE to present new direct evidence after other parties' opportunities for response are exhausted. These motions should also be granted to preserve the integrity of the evidentiary process under the Commission's rules of practice. Failure to do so would sanction any utility that chooses to hold back its real case until the 11th hour. AG Motion in Limine to Exclude the Surrebuttal Testimony of C. Kenneth Vogl and to Exclude Portions of the Surrebuttal Testimony of Thomas Opich Filed June 27, 2003; Tr. at 87-93.

Furthermore, assuming arguendo that Mr. Vogl's "new" pension and OPEB figures were properly introduced into evidence in this proceeding, these figures are no more supported than the original pension and OPEB figures offered by CIPS/UE. Towers Perrin, an accounting firm, produced the figures presented in Mr. Vogl's surrebuttal testimony. However, these figures do not represent an independent actuarial

¹ The People discussed CIPS/UE's pension and OPEB expense at page 17 of their Brief in these rate cases. This discussion included citation to Staff Data Request CIPS-063(f) for CIPS' statement that the pension and OPEB expenses were derived from the 2002 actuarial study using "trends and forward looking conditions". This citation was incorrect. The Data Request response that should have been cited was CIPS/UE Attorney General Data Request 4.6.

study. They are Towers Perrin's update to a 2003 budget prepared by CIPS/UE. The "trends and forward looking conditions" that CIPS/UE used to create its 2003 budget are said to be the basis for the updated budget figures included in Mr. Vogl's Surrebuttal Testimony, but they remain undocumented and unexplained. CIPS/UE Ex. 30 at 5. Since CIPS/UE has not produced any support or justification to demonstrate the reasonableness of the pension and OPEB figures it has offered in these rate cases, the People recommend that the Commission adopt the last reliable set of pension and OPEB expense figures, those produced based on CIPS/UE's 2002 actuarial study.

VII. Pension Benefits: Capitalization Ratios

CIPS/UE asserts that, "The actual [capitalization] rates used by the companies should be used" instead of capitalization rates developed by AG witness Effron because, "those [actual] capitalization rates included other factors" besides what was contained in the data Mr. Effron used to develop his recommended capitalization rates. CIPS/UE Initial Brief at 45. CIPS/UE does not elaborate as to what the other factors are, or why they result in a labor capitalization rate that is 10 times lower for UE or 100 times lower for CIPS than the companies' respective capitalization rates. AG Brief at 23.

CIPS/UE justifies its use of a .25% pension capitalization rate by stating that such a pension capitalization rate conforms to GAAP. TR. at 316-17. The significance of this conformance with GAAP is weakened by CIPS/UE witness Opich's agreement on cross-examination that it is possible for another factor besides .25% to also be consistent with GAAP. TR at 319.

In their Initial Brief, CIPS/UE assert a .25% pension capitalization rate should be adopted because it is the rate the company used. CIPS/UE Initial Brief at 45.

Considering CIPS/UE's failure to explain what factors the People did not consider in their recommended labor capitalization rate, or how these factors could have accounted for such a substantial change, and their failure to offer any argument more compelling than, "we used it, so you should as well," the People continue to recommend using CIPS/UE's labor capitalization rates as a proxy for pension capitalization rates.

VIII. Incentive Compensation Plan Expenses

CIPS/UE's Initial Brief presentation regarding its incentive compensation plan does not change the People's recommendation that CIPS/UE's incentive compensation plan expenses be eliminated from rate base. CIPS/UE identifies two Commission cases in which it claims the Commission permitted the recovery of incentive compensation plan expenses. As noted in the People's Brief in these rate cases, CIPS/UE's assertion that the Commission is bound by prior rate case decisions fails because judicial precedent clearly establishes that past Commission decisions are not *res judicata* in later Commission proceedings. AG Brief at 11.²

Furthermore, in more recent Commission proceedings involving CILCO, CIPS/UE's sister Ameren Company, the Commission disallowed recovery of incentive plan payments. ICC Docket 01-0465, 01-0530, 01-637 (cons.), Order at 59, (Mar. 28, 2002); see AG Brief at 11-12.

Consequently, the Commission is not bound by past practice to make a finding one way or the other with regard to incentive compensation plan costs. The Commission

² The Illinois Supreme Court has addressed this issue ; "[O]rders [of the Commissions] are not *res judicata* in later proceedings before it." United Cities Gas Co. v. Illinois Commerce Commission, 163 Ill.2d 1, 23, 634 N.E.2d 719, 730, 205 Ill.Dec. 428, 439. Citing Mississippi River Fuel Corp. et al. v. Illinois Commerce Commission, 1 Ill. 2d 509, 513, 116 N.E.2d 394, 396. Consequently, the Commission is not bound to maintain consistency with a previous decision.

need only look to the record in this case, which clearly demonstrates that the incentive compensation plan provides benefits to shareholders that do not necessarily overlap with the interests of ratepayers. AG Ex. 1.0P CIPS at 18-19; AG Ex. 1.0P UE at 16-17. Since the plan can provide benefits to shareholders without benefiting ratepayers, ratepayers should not be expected to pay for it.

IX. Meter Reading Expenses

CIPS/UE's Initial Brief states that the transition to a new Automated meter Reading ("AMR") system was complete before the test year, and that the test year expense level for non-labor meter reading fairly represents an ongoing level of expense. CIPS/UE Initial Brief at 56. Certainly, CIPS/UE would not mean to include non-recurring transition related charges in what it characterizes as a fair representation of an ongoing level of expense. It follows that it is CIPS/UE's position that there are no transition expenses included in the test-year non-labor meter reading expense level.

A data request response provided by UE in this case states that transition expenses are included in the test-year non-labor meter reading expense level. This response explains the increase in the test year level of non-labor meter reading expense is caused by expenditures necessary to "make the transition to a new billing system as seamless as possible." AG Cross Ex. 4. Since, as the data request response states, these expenses are related to the transition, they will not recur after the transition is complete.

Furthermore, the statement in CIPS/UE's Initial Brief indicating that no transition expenses are included in the test year states that the AMR system phase-in (the event that generated transition expenses) was completed in 2001. Since 2001 includes half of the

test-year, it is unclear how the AMR system phase-in occurring during 2001 reconciles with no transition expenses being included in the test year.

Based on two pieces of evidence in the record, the data request response that says transition expenses were included in the test-year (AG Cross Ex. 4) and CIPS/UE's statement that the AMR transition occurred in 2001 (CIPS/UE Ex. 23.0 at 8), it is the People's belief that transition related expense are included in the test year.

The record demonstrates that transition related expenses can be eliminated from the test-year non-labor meter reading expense presented by CIPS/UE by averaging the expense level from 1998 – 2001 to normalize the expense. AG Ex. 1.1 at 23. The People recommend that the Commission adopt a normalized non-labor meter reading expense level derived in this manner and reject the test year expense level proposed by CIPS/UE.

X. Rate Case Expenses

A. Amortization

CIPS/UE assert that there is nothing unusual about the three-year rate case expense amortization period they seek, and that it is not appropriate to “unduly elongate recovery [of rate case expenses] to effect a different sharing for the Ameren Companies that was effected in recent cases for other utilities.” CIPS/UE Initial Brief at 58. In adopting a rate case expense amortization period, the Commission is not bound by decisions it has made in previous rate cases involving different utilities and different industries. AG Brief at 11. Utility rate cases are not “cookie cutter” ministerial operations where the Commission is required to paste together an order out of tangentially relevant pieces of past orders. Instead, Illinois law recognizes that, “The concept of public regulation includes of necessity the philosophy that the Commission

shall have the power to deal freely with each situation as it comes before it, regardless of how in may have dealt with a similar or even the same situation in a previous proceeding.” United Cities Gas Co. v. Illinois Commerce Comission, 163 Ill.2d 29, 21, 634 N.E.2d 719 at 729, 205 Ill.Dec. 428, 438. *Quoting* Mississippi River Fuel Corp. et al. v. Illinois Commerce Commission, 1 Ill. 2d 509, 513, 116 N.E.2d 394, 396.

For CIPS and UE, each company has a demonstrated history of waiting significantly longer than three years between rate cases.³ Consequently, given the facts and circumstances unique to CIPS and UE, a three-year amortization period is inappropriately short and is not likely to match the time period during which the rates set will be in effect.

CIPS/UE also assert that a three-year amortization period poses no undue risk to consumers because the Commission has full authority to review and revise the rates of any gas utility that is earning an excessive return, and would therefore be able to initiate a proceeding to correct any instance of over earning related to over collection of CIPS/UE rate case expenses. CIPS/UE seem to be suggesting that the Commission need not use the best information available to it to match the rate case cost amortization period with the time period the rates will be in effect because, if the Commission gets it wrong during these rate cases, it has the authority to initiate new proceedings to make corrections.

Furthermore, relying on the Commission’s authority to review and revise rates in this manner is not appropriate. Any additional litigation required to “fix” ratemaking

³ Both CIPS and UE filed their last rate cases five years ago, in 1998. CIPS’ waited seven years and UE waited fifteen years before filing their 1998 rate cases. *See* ICC Docket 98-0546, Order at 1, 1999 Ill. PUC LEXIS 186, February 18, 1999; ICC Docket 98-0545, Order at 1, 1999 Ill. PUC LEXIS 185, February 18, 1999; ICC Docket 91-0193, Order at 1, 1992 Ill. PUC LEXIS 81, March 18, 1992; ICC Docket 98-0546 Order at 4, 1999 Ill. PUC LEXIS 186, February 18, 1999.

errors in these rate cases will impose additional and unnecessary expenses on CIPS/UE (and consequently their ratepayers) and on extremely limited state government resources. Rather than relying on authority to initiate corrective litigation at a later date, the Commission should consider the information available to it now and adopt a five-year amortization period for rate case expenses, since the record demonstrates that this time period is likely to match the time period during which the rates adopted will be in effect. AG Ex. 1.0P CIPS at 25, AG Ex. 1.0P UE at 26.

B. Allocation

The sole reason CIPS/UE offers as a basis for their request that rate case expenses be allocated evenly between CIPS and UE is that the expense of preparing and filing a rate case does not fluctuate based on the size of the organization. CIPS/UE Initial Brief at 56. CIPS/UE does not offer any rebuttal of the facts in the record demonstrating that it would be more reasonable and more equitable to allocate the rate case costs between the two affiliates based on their relative size (AG Ex. 1.0P CIPS at 26; AG 1.0 P UE at 25) especially the fact that the Commission ordered a proportional allocation of rate case expenses in the last CIPS/UE ratemaking. Tr. at 308. It is not unreasonable for the allocation of rate case costs to reflect the disparity in the size of the rate base increases that CIPS and UE are seeking in view of the fact that CIPS/UE witness Opich agreed an equal allocation will result in undue burdens on the much smaller UE customer base. TR at 290.

As the People pointed out in their Brief, CIPS customer base is more than nine times of UE's. Allocating the rate case expenses in the manner proposed by CIPS/UE would unfairly saddle UE customers with a vastly disproportionate share of the rate case costs. The Commission has allocated rate case expenses among CIPS and UE based on

their revenues in the past. Tr. at 308. CIPS and UE have offered no reason why the Commission should break from this practice. Consequently, the People's recommendations that rate case expenses be allocated based on the size of each company should be adopted.

CONCLUSION

Therefore, for the reasons stated above, the People of the State of Illinois request that the Commission make the adjustments recommended in the People's Brief and reduce the rate increases requested by CIPS and UE accordingly.

Dated: August 8, 2003

Respectfully submitted,

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